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ORIGINAL

Congress of the United States
House of Representatives

September 16, 2003

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Bryant L. VanBrakle
Secretary
Federal Maritime Commission
800 North Capitol Street, NW
Washington, D.C. 20573

RECEIVED
SEP 23 PM 2:47
FEDERAL MARITIME COMMISSION
R E : Petition P3-03

Dear Commissioners:

It is my understanding that UPS has filed for an exemption from the prohibition on Non-Vessel Operating Common Carriers ("NVOCCs") from entering into confidential contracts with their customers. On the other hand, Vessel Operating Common Carriers ("VOCCs") are able to keep contracts confidential creating an unfair playing field. In recent years, the ocean-shipping marketplace has changed significantly and the antiquated regulatory scheme governing NVOCCs should be revised. I write in support of the petition filed by UPS currently pending before the FMC.

During consideration of the *Ocean Shipping Reform Act* (OSRA) revisions of 1998, Congress carefully considered all aspects of the ocean shipping industry including the role of NVOCCs. Based on the nature of ocean shipping at the time, Congress determined that NVOCCs should be regulated differently than vessel operators. In the late 1990's, most NVOCCs were small enterprises that neither owned ocean vessels nor the cargo being shipped. In order to protect shippers and to guarantee liability coverage, Congress determined that NVOCCs should operate under a published tariff system when dealing with their customers.

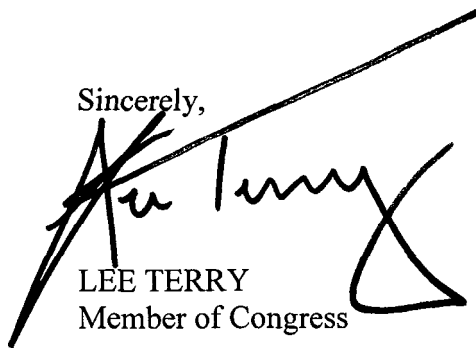
However, the state of the U.S. ocean shipping industry has changed dramatically since passage of OSRA. Increased consolidation among ocean carriers has resulted in fewer major U.S. flagged carriers. In an effort to offer customers a full range of services, these very same carriers have created vertically integrated logistics companies that now compete with NVOCCs.

UPS operates a sophisticated, integrated, intermodal transportation network that includes air, rail and surface and NVOCC transportation. It is deemed a "carrier" within the surface and airfreight industries. UPS has also made significant annual capital investments to its' asset-based transportation infrastructure. These facts alone set UPS apart from the companies that first raised concerns about the regulatory status of NVOCCs.

The UPS petition reflects the market changes that Congress envisioned in passing the OSRA and granting the FMC exemption authority to be able to respond to these changing market conditions in a timely manner. By **granting** this petition, the FMC will acknowledge these changes, level the playing field between NVOCCs and vessel operators, and ultimately benefit ocean-shipping consumers around the world.

A number of companies and small businesses in my District rely on the intermodal shipping services of UPS and its ability to compete fairly in the marketplace. These customers will benefit from improved services and competitive pricing that would be created by equal treatment of NVOCCs and VOCCs in the shipping marketplace. I urge the FMC to give careful consideration to the UPS petition and render an equitable decision.

Sincerely,

A handwritten signature in black ink, appearing to read "Lee Terry", is written over a diagonal line that extends from the bottom left towards the top right. The signature is fluid and cursive.

LEE TERRY
Member of Congress

LT/deh